

SECOND REGULAR SESSION

HOUSE BILL NO. 2516

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BYRNES.

5997H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal section 630.140, RSMo, and to enact in lieu thereof three new sections relating to mental health patients.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 630.140, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 630.140, 632.180, and 632.322, to read as follows:

630.140. 1. Information and records compiled, obtained, prepared or maintained by the residential facility, mental health program operated, funded or licensed by the department or otherwise, specialized service, or by any mental health facility or mental health program in which people may be civilly detained pursuant to chapter 632 in the course of providing services to either voluntary or involuntary patients, residents or clients shall be confidential.

2. The facilities or programs shall disclose information and records including medication given, dosage levels, and individual ordering such medication to the following upon their request:

(1) The parent of a minor patient, resident or client;

(2) The guardian or other person having legal custody of the patient, resident or client;

(3) The attorney of a patient, resident or client who is a ward of the juvenile court, an alleged incompetent, an incompetent ward or a person detained under chapter 632, as evidenced by court orders of the attorney's appointment;

(4) An attorney or personal physician as authorized by the patient, resident or client;

(5) Law enforcement officers and agencies, information about patients, residents or clients committed pursuant to chapter 552, but only to the extent necessary to carry out the

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 responsibilities of their office, and all such law enforcement officers shall be obligated to
19 keep such information confidential;

20 (6) The entity or agency authorized to implement a system to protect and advocate the
21 rights of persons with developmental disabilities under the provisions of 42 U.S.C. Sections
22 15042 to 15044. The entity or agency shall be able to obtain access to the records of a person
23 with developmental disabilities who is a client of the entity or agency if such person has
24 authorized the entity or agency to have such access; and the records of any person with
25 developmental disabilities who, by reason of mental or physical condition is unable to
26 authorize the entity or agency to have such access, if such person does not have a legal
27 guardian, conservator or other legal representative, and a complaint has been received by the
28 entity or agency with respect to such person or there is probable cause to believe that such
29 person has been subject to abuse or neglect. The entity or agency obtaining access to a
30 person's records shall meet all requirements for confidentiality as set out in this section;

31 (7) The entity or agency authorized to implement a system to protect and advocate the
32 rights of persons with mental illness under the provisions of 42 U.S.C. Section 10801 et seq.,
33 as amended, shall be able to obtain access to the records of a patient, resident or client who by
34 reason of mental or physical condition is unable to authorize the system to have such access,
35 who does not have a legal guardian, conservator or other legal representative and with respect
36 to whom a complaint has been received by the system or there is probable cause to believe
37 that such individual has been subject to abuse or neglect. The entity or agency obtaining
38 access to a person's records shall meet all requirements for confidentiality as set out in this
39 section. The provisions of this subdivision shall apply to a person who has a significant
40 mental illness or impairment as determined by a mental health professional qualified under
41 the laws and regulations of the state; ~~and~~

42 (8) To individuals, designated by the department of mental health as community
43 mental health liaisons, for the purpose of coordination of care and services; **and**

44 **(9) A qualified family advocate entitled to the records under section 632.322.**

45 3. The facilities or services may disclose information and records under any of the
46 following:

47 (1) As authorized by the patient, resident or client;

48 (2) To persons or agencies responsible for providing health care services to such
49 patients, residents or clients as permitted by the federal Health Insurance Portability and
50 Accountability Act of 1996 (HIPAA), as amended;

51 (3) To the extent necessary for a recipient to make a claim or for a claim to be made
52 on behalf of a recipient for aid or insurance;

53 (4) To qualified personnel for the purpose of conducting scientific research,
54 management audits, financial audits, program evaluations or similar studies; provided, that

55 such personnel shall not identify, directly or indirectly, any individual patient, resident or
56 client in any report of such research, audit or evaluation, or otherwise disclose patient,
57 resident or client identities in any manner;

58 (5) To the courts as necessary for the administration of chapter 211, 475, 552, or 632;

59 (6) To law enforcement officers or public health officers, but only to the extent
60 necessary to carry out the responsibilities of their office, and all such law enforcement and
61 public health officers shall be obligated to keep such information confidential;

62 (7) Pursuant to an order of a court or administrative agency of competent jurisdiction;

63 (8) To the attorney representing petitioners, but only to the extent necessary to carry
64 out their duties under chapter 632;

65 (9) To the department of social services or the department of health and senior
66 services as necessary to report or have investigated abuse, neglect, or rights violations of
67 patients, residents, or clients;

68 (10) To a county board established pursuant to sections 205.968 to 205.973, but only
69 to the extent necessary to carry out their statutory responsibilities. The county board shall not
70 identify, directly or indirectly, any individual patient, resident or client;

71 (11) To parents, legal guardians, treatment professionals, law enforcement officers,
72 and other individuals who by having such information could mitigate the likelihood of a
73 suicide. The facility treatment team shall have determined that the consumer's safety is at
74 some level of risk;

75 (12) To individuals, designated by the department of mental health as community
76 mental health liaisons, for the purpose of coordination of care and services.

77 4. The facility or program shall document the dates, nature, purposes and recipients of
78 any records disclosed under this section and sections 630.145 and 630.150.

79 5. The records and files maintained in any court proceeding under chapter 632 shall
80 be confidential and available only to the patient, the patient's attorney, guardian, or, in the
81 case of a minor, to a parent or other person having legal custody of the patient, to the
82 petitioner and the petitioner's attorney, and to the Missouri state highway patrol for reporting
83 to the National Instant Criminal Background Check System (NICS), and to individuals
84 designated by the department of mental health as community mental health liaisons for the
85 purpose of coordination of care and services. In addition, the court may order the release or
86 use of such records or files only upon good cause shown, and the court may impose such
87 restrictions as the court deems appropriate.

88 6. Nothing contained in this chapter shall limit the rights of discovery in judicial or
89 administrative procedures as otherwise provided for by statute or rule.

90 7. The fact of admission of a voluntary or involuntary patient to a mental health
91 facility under chapter 632 may only be disclosed as specified in subsections 2 and 3 of this
92 section.

**632.180. 1. This section and section 632.322 shall be known and may be cited as
2 the "Family Mental Health Advocacy and Patient Rights Act".**

3 **2. All individuals admitted, detained, or evaluated under this chapter shall have
4 the right to:**

5 **(1) Dignity and humane treatment;**

6 **(2) A responsible advocate when unable to self-advocate;**

7 **(3) Clear explanation of diagnosis, treatment, and medication;**

8 **(4) Participation in care decisions to the fullest extent possible;**

9 **(5) Safe and coordinated discharge planning with outpatient providers and
10 household family members when applicable; and**

11 **(6) A rapid appeal process for involuntary detention, denial of family access, and
12 premature discharge.**

13 **3. Mental health facilities shall post these rights in a conspicuous location and
14 provide them in writing at the time of evaluation or admission.**

15 **4. (1) Compliance with this section shall be required under the licensing
16 regulations applicable to mental health facilities, and a violation of this section shall be
17 grounds for any administrative action authorized for violations of such regulations.**

18 **(2) The department of mental health shall investigate any complaints alleging
19 violations of the rights described in this section and issue orders for corrective actions or
20 impose any other appropriate administrative sanctions for such violations.**

21 **5. The department of mental health shall promulgate rules to implement this
22 section. Any rule or portion of a rule, as that term is defined in section 536.010, that is
23 created under the authority delegated in this section shall become effective only if it
24 complies with and is subject to all of the provisions of chapter 536 and, if applicable,
25 section 536.028. This section and chapter 536 are nonseverable and if any of the powers
26 vested with the general assembly pursuant to chapter 536 to review, to delay the
27 effective date, or to disapprove and annul a rule are subsequently held unconstitutional,
28 then the grant of rulemaking authority and any rule proposed or adopted after August
29 28, 2026, shall be invalid and void.**

632.322. 1. As used in this section, the following terms mean:

2 **(1) "Capacity", the ability of an individual to understand treatment information,
3 communicate decisions, and act in the individual's own best interests;**

4 (2) "Incapacitated", the temporary inability of an individual to understand
5 treatment information, communicate decisions, and act in the individual's own best
6 interests;

7 (3) "Qualified family advocate", an individual who:

8 (a) Is eighteen years of age or older;

9 (b) Is related to the respondent within the first degree of consanguinity or
10 affinity;

11 (c) Has resided in the same household as the respondent for a period of at least
12 thirty consecutive days before the date the respondent was detained for evaluation and
13 treatment at a mental health facility; and

14 (d) Is not subject to any active order of protection or substantiated finding of
15 abuse.

16 2. A rebuttable presumption that an individual is incapacitated shall
17 automatically apply upon:

18 (1) Detention of the individual for evaluation and treatment at a mental health
19 facility under section 632.305; or

20 (2) A finding that the individual meets the criteria for emergency psychiatric
21 evaluation due to risk of harm to self or others.

22 3. Notwithstanding any other provision of law, any detention of a respondent for
23 evaluation and treatment under section 632.305 shall automatically entitle a qualified
24 family advocate to the access and participation described in subsection 4 of this section
25 without requiring additional capacity findings until reevaluation of the respondent.
26 Only one individual shall be designated as the qualified family advocate for the
27 respondent. If more than one family member meets the definition of qualified family
28 advocate, the family members shall select one individual to serve as the qualified family
29 advocate for the respondent.

30 4. Upon detention of the respondent, the qualified family advocate for the
31 respondent shall be granted:

32 (1) Access to treatment information necessary for safety, medication decisions,
33 discharge planning, and continuity of care; and

34 (2) Participation in treatment team meetings, including care plans, medication
35 changes, risk assessments, and discharge or transfer decisions.

36 5. Upon documented restoration of capacity of the respondent, the qualified
37 family advocate's access and participation under this section shall end, provided that the
38 qualified family advocate shall receive notification before the respondent's release from
39 detention.

40 **6. A mental health facility shall not implement a blanket policy prohibiting**
41 **family participation or cite confidentiality laws as the basis for denying the access or**
42 **participation described in this section when the conditions of this section have been**
43 **satisfied.**

44 **7. (1) Compliance with this section shall be required under the licensing**
45 **regulations applicable to mental health facilities, and a violation of this section shall be**
46 **grounds for any administrative action authorized for violations of such regulations.**

47 **(2) The department of mental health shall investigate any complaints alleging**
48 **violations of this section and issue orders for corrective actions or impose any other**
49 **appropriate administrative sanctions for such violations.**

50 **8. The department of mental health shall promulgate rules to implement this**
51 **section. Any rule or portion of a rule, as that term is defined in section 536.010, that is**
52 **created under the authority delegated in this section shall become effective only if it**
53 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
54 **section 536.028. This section and chapter 536 are nonseverable and if any of the powers**
55 **vested with the general assembly pursuant to chapter 536 to review, to delay the**
56 **effective date, or to disapprove and annul a rule are subsequently held unconstitutional,**
57 **then the grant of rulemaking authority and any rule proposed or adopted after August**
58 **28, 2026, shall be invalid and void.**

✓